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III. REMARKS

Format of this Response

This response is submitted in compliance with the revised format for making amendments to the specification, claims and drawings officially adopted by the USPTO on July 30, 2003, and which is now reflected in 37 C.F.R. §1.121.

If a substitute specification is submitted herein, a clean form and marked-up version are included. Amendments to drawings, if any, are submitted in compliance with 37 C.F.R. §1.84 on replacement sheets as an attachment to this document (with an accompanying detailed explanation of all of the changes with respect to the drawings made in the remarks section of this amendment.

Status of Claims :

Amendment of the claim 1 is presented herein. No new matter has been introduced with this amendment, which is fully supported by the instant Specification.

Statement with Respect to Scope of Amended and Non-Amended Claims

Revisions to the claim set is made in order to streamline prosecution of this case in order to obtain early allowance of embodiments that are presently anticipated to be of commercial significance and in response to the Examiner's restriction requirement which has been made final in the Office Action, and are not made for a purpose of patentability. Any amendment, cancellation, withdrawal or addition made herein with respect to the claims should not be construed in any manner as indicating Applicant's surrender of any subject matter of the application, or surrender of any equivalent to any element asserted in one or more claims. Any narrowing which may be evinced with respect to subject matter covered by the claims as a whole, or by one or more claims of the appended claims whether amended, re-represented, or

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new, when compared to claims previously in the application, should not be interpreted as indicating that the Applicant has generally disclaimed the territory between the original claimed subject matter and the amended claimed subject matter. Amended claims elements are to be construed to include substantial equivalents known to those of ordinary skill in the art. Applicant asserts that any amendments transacted herein are made without prejudice and reserve all rights to prosecute any canceled claims, and claim structures preceding any amendment to a particular claim, and other disclosed (but not presently claimed) embodiments in the application, in future continuation applications, divisional applications, continuation-in-part applications, continuing prosecution applications, requests for continuing examination, re-examination applications and any other application claiming priority to the present application.

The Examiner has entered the amendment of August 19, 2005, canceling claim 2. Thus , claims 1, 3-22 are pending. Claim 1 has been amended to further define the invention wherein the method is programmed in a vehicle-mounted contour definition device for real time monitoring an operator.

Claim Rejections -35 USC § 103

Examiner's Position:

Claims 1, 3 and 4 are rejected under 35 U. S. C. 103(a) as being obvious over Leivian (US 2002/ in view of Loraas (US 5,931,254).

In reference to Claim 1, Leivian allegedly discloses a response synthesis in driver assistance by continuous and instant operation of video or imaging sensors, although the Examiner admits that Leivian does not disclose scanning or tracking a contour or silhouette of an object. However, the Loraas disclosure allegedly adds a non-contact operator presence sensor for normal operation such that referenced system would have been obvious to one skilled in the art.

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Referencing claims 3 and 4, the Examiner alleges disclosure in Leivian of monitoring by video or imaging sensors for operator extremities as well as the eye blink rate and gaze of the driver.

Applicant's Response:

Reconsideration of the rejected claims is requested. Applicant respectfully traverses the rejection of claim 1 as presently amended, as well as dependent claims 3 and 4, over the cited references, taken alone or in combination. In the first instance, the references are silent on the method as programmed in a vehicle mounted contour definition device for defining and generating a silhouette of face/head of the operator within a vehicle. Secondly, the references do not suggest a method/process programmed in said vehicle mounted contour definition device simultaneously determining pupil position overlying a certain face/head contour and monitoring pupil reflex in real-time. Therefore, the rejection of the claims 1, 3 and 4 under 35 U.S.C. §103 is deemed improper and its withdrawal is solicited herewith.

Allowable Subject Matter

Applicant respectfully acknowledges that the Examiner held claims 5-22 allowable.

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CONCLUSION

The application is now believed to be in condition for allowance and an early notification thereof is respectfully requested.

Respectfully submitted,

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Hans-Peter G. Hoffmann, PhD

Reg. No. 37,352

KELLEY DRYE & WARREN LLP

TWO STAMFORD PLAZA

281 TRESSER BOULEVARD

STAMFORD, CT 06901

Phone 203-351-8011

Fax: 203-327-2669

E-mail: hhoffmann@kelleydrye.com

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